

## REMARKS

Claims 11-14, 16, 18-19, 27-31 and 38-45 are pending in the application.

Claims 11, 14, 31, 42, and 44 are amended. Claim 12 is canceled. No new subject matter is added. Claims 11, 13-14, 16, 18-19, 27-31 and 38-45 remain in the case for consideration. Reconsideration and allowance of claims 11, 13-14, 16, 18-19, 27-31, and 38-45 are requested in light of the above amendments and the following remarks.

### **Claim Rejections under 35 U.S.C. § 101**

Claims 11-13, 14, 16, 18-19, and 31 were rejected for non-statutory subject matter. Claims 11, 14, and 31 are amended to recite statutory subject matter. Claims 12-13, 16, and 18-19 depend from claims 11 and 14 respectively, and thus also recite statutory subject matter. Applicant requests withdrawal of the rejections.

### **Claim Rejections under 35 U.S.C. §103**

Claims 11-14, 16, 18-19, 27-31, and 38-45 were rejected as being unpatentably over Saulpaugh et al. (US006934755) an in view of Theimer et al. (US005493692). The rejection is respectfully traversed.

Claim 11, as amended, recites “an inquirer designed to place an inquiry in a JavaSpace persistent store to determine the availability of an user in an environment, the JavaSpace persistent store including at least one of an environment setting to indicate the availability of the user in the environment, and a user preference setting to indicate whether a device in the environment is enabled to be used.” Claims 11, 14, 42, and 44 recites similar features. *See* Specification, page 8, lines 16-19.

Saulpaugh teaches a system and method for persistent application migration that provides application separation and maintains the properties of a process beyond the single execution of a virtual machine while preserving the external state of the process. *See* Saulpaugh, Col. 3, lines 46-52.

As acknowledged in the Office Action, Saulpaugh does not teach “determine the availability of a user in an environment.” *See* Office Action, page 5, last three lines.

Saulpaugh also does not teach a JavaSpace persistent store “including at least one of an environment setting to indicate the availability of the user in the environment, and a user preference setting to indicate whether a device in the environment is enabled to be used.” Saulpaugh merely teaches a generic JavaSpace technology, as described in Col. 14, lines 32-45 of the disclosure, which is not repeated here.

Furthermore, the relevant paragraph of Saulpaugh that is cited on page 5 of the Office Action explicitly teaches away from Jini and JavaSpaces. Saulpaugh makes it clear that Jini

and JavaSpaces are inadequate for a consumer or appliance device with a small amount of memory (referred to as a "small footprint device"), and as a result, "The CNSCS may be designed specifically *for use with small footprint network client devices that may be too "small" (not have enough resources such as memory) to support a system such as Jini.*" See Saulpaugh, Col. 14, lines 46-47, and lines 52-56.

Theimer teaches selectively delivering electronic messages to an identified user or users in a system of mobile and fixed devices based on the context of the system and the environment of the identified user. See Theimer, Col. 4, lines 27-33.

Theimer does not teach or suggest a JavaSpace persistent store "including at least one of an environment setting to indicate the availability of the user in the environment, and a user preference setting to indicate whether a device in the environment is enabled to be used."

Claim 11, as amended, further recites "a sender designed to send a message to the JavaSpace persistent store when the user is not available in the environment." Claims 14, 42, and 44 recite similar features as claim 11. See Specification, page 10, lines 16-22.

As discussed above, Saulpaugh does not determine the availability of a user in an environment. As such, Saulpaugh cannot teach "send a message to the JavaSpace persistent store when the user is not available in the environment."

Theimer does not cure the deficiency of Saulpaugh. Theimer teaches an "urgent message delivery" module that tries to deliver queued urgent messages to the user that should only be delivered when the user is at home or when the user is not obviously in a meeting (i.e., with other people). See Theimer, Col. 14, lines 25-39. That is, Theimer teaches sending an urgent message to the user when the user is available in an environment, e.g., home, not "when the user is not available in the environment" as recited in claims 11, 14, 42, and 44.

Therefore, claims 11, 14, 42, and 44, as well as their respective dependent claims 13, 16, 18-19, 27-31, 38-41, 43, and 45 are patentably distinguishable over Saulpaugh in view of Theimer. Claims 11, 13-14, 16, 18-19, 27-31 and 38-45 are in condition for allowance.

For the foregoing reasons, reconsideration and allowance of claims 11-14, 16, 18-19, 27-31 and 38-45 of the application as amended is solicited. The Examiner is encouraged to telephone the undersigned at (503) 222-3613 if it appears that an interview would be helpful in advancing the case.

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